

**§ 1625.16 Termination funding.**

After a final decision to deny refunding, and without regard to whether a hearing has occurred, the Corporation may authorize temporary funding if necessary to enable a recipient to close or transfer current matters in a manner consistent with the professional responsibility of the recipient and the recipient's attorneys to their present clients.

## PART 1626—RESTRICTIONS ON LEGAL ASSISTANCE TO ALIENS

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AUTHORITY: Pub. L. 104-134, 110 Stat. 1321.

SOURCE: 61 FR 45751, Aug. 29, 1996, unless otherwise noted.

**§ 1626.1 Purpose.**

This part prohibits recipients from providing legal assistance for or on behalf of ineligible aliens. It is also designed to assist recipients in determining the eligibility and immigration status of persons who seek legal assistance and to provide guidelines for referral of ineligible persons.

**§ 1626.2 Definitions.**

(a) Eligible alien means a person who is not a U.S. citizen but who meets the requirements of § 1626.4.

(b) Ineligible alien means a person who is not a U.S. citizen and who does not meet the requirements of § 1626.4.

(c) Rejected refers to an application for adjustment of status that has been denied by the Immigration and Naturalization Service (INS) and is not subject to further administrative appeal.

(d) To provide legal assistance on behalf of an ineligible alien is to render legal assistance to an eligible client which benefits an ineligible alien and

does not affect a specific legal right or interest of the eligible client.

**§ 1626.3 Prohibition.**

Recipients may not provide legal services for or on behalf of an ineligible alien beyond normal intake and referral services.

**§ 1626.4 Alien status and eligibility.**

Subject to all other eligibility requirements and restrictions of the LSC Act and regulations and other applicable law, a recipient may provide legal assistance to an alien who is present in the United States and who is within one of the following categories:

(a) An alien lawfully admitted for permanent residence as an immigrant as defined by section 1101(a)(20) of the Immigration and Nationality Act (INA) (8 U.S.C. 1101(a)(20));

(b) An alien who is either married to a United States citizen or is a parent or an unmarried child under the age of 21 of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

(c) An alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157 relating to refugee admissions) or who has been granted asylum by the Attorney General under section 208 of the Immigration and Nationality Act (8 U.S.C. 1158), or who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity;

(d) An alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)); or

(e) An alien who meets the requirements of § 1626.7, 1626.8 or 1626.9.

**§ 1626.5 Verification of citizenship and eligible alien status.**

(a) A citizen seeking representation shall attest in writing in a form approved by the Corporation to the fact of his or her United States citizenship. Verification of citizenship shall not be required unless a recipient has reason to doubt that a person is a United States citizen.

(1) If verification is required, a recipient shall accept the original or a certified copy of any of the following documents as evidence of citizenship:

- (i) United States passport;
- (ii) Birth certificate;
- (iii) Naturalization certificate;
- (iv) United States Citizenship Identification Card (INS Form 1-197); and
- (v) Baptismal certificate showing place of birth within the United States and date of baptism within two months after birth.

(2) If a person is unable to produce any of the documents in paragraph (a)(1) of this section, he or she may submit a notarized statement signed by a third party, who shall not be an employee of the recipient and who can produce proof of that party's own United States citizenship, that the person seeking legal assistance is a United States citizen.

(b) An alien seeking representation shall submit appropriate documents to verify eligibility. A recipient shall accept originals of any of the following documents as proof of eligibility:

(1) An alien in the category specified in § 1626.4(a) shall present an Alien Registration Receipt Card (INS Forms 1-151, or 1-551), a Temporary Evidence of Lawful Admission for Permanent Residence form (INS Form 1-181B), or a valid passport and immigration visa.

(2) An alien in the category specified in § 1626.4(b) shall present the following documents:

(i) The fee receipt issued to the alien by the Immigration and Naturalization Service (INS) at the time that the Application for Status as Permanent Resident (INS Form 1-485) was filed; a copy of the Application for Status as Permanent Resident accompanied by a notarized statement signed by the alien that such form was filed with INS; a copy of the Application for Immigrant Visa & Alien Registration (De-

partment of State Form FS-510) accompanied by a notarized statement signed by the alien that such form was filed with a consulate office; or a copy of the Application for Suspension of Deportation (INS Form 1-256A) accompanied by a notarized statement signed by the alien that such form was filed with INS; and

(ii) A copy of the alien's marriage certificate accompanied by proof of the spouse's U.S. citizenship; a copy of the United States birth certificate, baptismal certificate, adoption decree or other documents demonstrating that the alien is the parent of a United States citizen under the age of 21; a copy of the alien's birth certificate, baptismal certificate, adoption decree, or other documents demonstrating that the alien is a child under the age of 21, accompanied by proof that the alien's parent is a United States citizen; or in lieu of the above, a copy of the Petition to Classify Status of Alien Relative for Issuance of Immigrant Visa (INS Form 1-130) containing information that demonstrates that the alien is related to such a United States citizen spouse, parent, or child, accompanied by a notarized statement that such form was filed with INS.

(3) An alien in the category specified in § 1626.4(c) shall present an Arrival-Departure Record (INS Form 1-94) marked "section 207" or "Refugee" (if claiming refugee status), "section 208" or "Asylum" (if claiming asylum status), or "section 203(a)(7)" or "conditional entry" (if claiming conditional entrant status).

(4) An alien in the category specified in § 1626.4(d) shall present an Arrival-Departure Record (INS Form 1-94) marked "section 243(h)," or a court order or letter signed by an immigration judge stating that the Attorney General is withholding deportation of the alien.

(5) A recipient may also accept any other authoritative document issued by INS that provides evidence of alien status for the categories of aliens listed in paragraph (b) of this section.

(c) A Temporary Resident Card (INS Form 1-688) shall be considered evidence of eligible alien status in the case of a Special Agricultural Worker. See § 1626.7(b). This form shall not be

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considered evidence of eligible alien status in the case of an alien who has obtained an adjustment in status under the General Amnesty provisions of Immigration Reform and Control Act (IRCA), 8 U.S.C. 1255a, unless the alien can qualify independently under another exception to the general restriction as stated in §1624.4(a), (b), (c) or (d).

(d) A recipient shall upon request furnish each person seeking legal assistance with a list of the documents described in this section. Persons applying for legal assistance are responsible for producing the appropriate documents to verify eligibility.

(e) In an emergency, legal services may be provided prior to compliance with all the requirements of §1626.5(a) through (d) if:

(1) It is not feasible for a citizen or an alien to come to the recipient's office or otherwise physically transmit documentation to the recipient before commencement of representation, such required information as can be obtained orally shall be recorded by the recipient and written documentation shall be submitted as soon as possible;

(2) An alien is physically present, but cannot produce required documentation, he or she shall make a written statement identifying the category listed in §1626.4 under which he or she claims eligibility and the documents that will be produced to verify that status; this documentation shall be submitted as soon as possible;

(3) The recipient adheres strictly to the same criteria for emergency assistance used in their general determination of priorities and uses the procedures of §1626.5(e) only in cases meeting these criteria; and

(4) The recipient informs clients accepted under these procedures that only limited emergency legal assistance may be provided them without satisfactory documentation and that failure or inability to produce satisfactory documentation will compel the recipient to discontinue representation consistent with the recipient's professional responsibilities as soon as the emergency no longer exists.

(f) No written verification is required when the only service provided for an eligible alien or citizen is brief advice

and consultation by telephone. The term "brief advice" is limited to advice provided by telephone and does not include a continuous representation of a client.

### § 1626.6 Change in circumstances.

If, to the knowledge of the recipient, a client who was an eligible alien becomes ineligible through a change in circumstances, a recipient must discontinue representation of the client consistent with the applicable rules of professional responsibility.

### § 1626.7 Special eligibility questions.

(a) The alien restriction in §1626.3 is not applicable to the following:

(1) Citizens of the following Pacific Island entities:

(i) Commonwealth of the Northern Marinas;

(ii) Republic of Palau;

(iii) Federated States of Micronesia;

(iv) Republic of the Marshall Islands;

(2) All Canadian-born American Indians at least 50% Indian by blood;

(3) Members of the Texas Band of Kickapoo.

(b) An alien who qualified as a special agricultural worker and whose status is adjusted to that of temporary resident alien under the provisions of IRCA is considered a permanent resident alien for all purposes except immigration under the provisions of section 302 of Pub. L. 99-603, 100 Stat. 3422, 8 U.S.C. 1160(g). Since the status of these aliens is that of permanent resident alien under section 1101(a)(20) of Title 8, these workers may be provided legal assistance. These workers are ineligible for legal assistance in order to obtain the adjustment of status of temporary resident under IRCA, but are eligible for legal assistance after the application for adjustment of status to that of temporary resident has been filed, as long as such application has not been rejected and the applicant is eligible for services under §1626.4(b).

### § 1626.8 H-2 Agricultural workers.

(a) Nonimmigrant agricultural workers admitted under the provisions of 8 U.S.C. 1101(a)(15)(h)(ii), commonly called H-2 workers, are considered to be aliens described in 8 U.S.C.

1101(a)(20) and thus, if otherwise eligible, may be provided legal assistance regarding the matters specified in section 305 of the Immigration Reform and Control Act of 1986, Pub. L. 99–603, Stat. 3434, 8 U.S.C. 1101 note.

(b) The following matters which arise under the provisions of the worker's specific employment contract may be the subject of legal assistance by an LSC-funded program:

- (1) Wages;
- (2) Housing;
- (3) Transportation; and
- (4) Other employment rights as provided in the worker's specific contract under which the nonimmigrant worker was admitted.

**§ 1626.9 Replenishment agricultural workers.**

Aliens who acquire the status of aliens lawfully admitted for temporary residence as replenishment agricultural workers under section 210A(c) of the Immigration and Nationality Act, such status not having changed, are considered to be aliens described in 8 U.S.C. 1101(a)(20) and thus may receive legal assistance, if otherwise eligible.

**§ 1626.10 Recipient policies, procedures and recordkeeping.**

Each recipient shall adopt written policies and procedures to guide its staff in complying with this part and shall maintain records sufficient to document the recipient's compliance with this part.

**PART 1627—SUBGRANTS AND DUES**

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SOURCE: 48 FR 54209, Nov. 30, 1983, unless otherwise noted.

**§ 1627.1 Purpose.**

In order to promote accountability for Corporation funds and the observance of the provisions of the Legal Services Corporation Act and the Corporation's regulations adopted pursuant thereto, it is necessary to set out the rules under which Corporation funds may be transferred by recipients to other organizations (including other recipients).

**§ 1627.2 Definitions.**

(a) *Recipient* as used in this part means any recipient as defined in section 1002(6) of the Act and any grantee or contractor receiving funds from the Corporation under section 1006(a)(1)(B) or 1006(a)(3) of the Act.

(b)(1) *Subrecipient* shall mean any entity that accepts Corporation funds from a recipient under a grant contract, or agreement to conduct certain activities specified by or supported by the recipient related to the recipient's programmatic activities. Such activities would normally include those that might otherwise be expected to be conducted directly by the recipient itself, such as representation of eligible clients, or which provide direct support to a recipient's legal assistance activities or such activities as client involvement, training or state support activities. Such activities would not normally include those that are covered by a fee-for-service arrangement, such as those provided by a private law firm or attorney representing a recipient's clients on a contract or judicare basis, except that any such arrangement involving more than \$25,000 shall be included. Subrecipient activities would normally also not include the provision of goods or services by vendors or consultants in the normal course of business if such goods or services would not be expected to be provided directly by the recipient itself, such as auditing or business machine purchase and/or maintenance. A single entity could be a subrecipient with respect to some activities it conducts for a recipient while not being a subrecipient with respect to other activities it conducts for a recipient.

(2) *Subgrant* shall mean any transfer of Corporation funds from a recipient